

REMARKS

The Applicant respectfully requests reconsideration in view of the following remarks and amendments. Claims 1, 7, 10, 11, 14, 19, 20, 21, and 25 have been amended. Claim 29 was previously cancelled. No claims have been added. Accordingly, claims 1-28 are pending in the Application.

I. Claim Rejections – 35 U.S.C. §103

In the outstanding Office Action, claims 1-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,249,044 issued to Kumar (hereinafter “Kumar”). Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kumar, as applied to claim 1 above, and further in view of U.S. Patent No. 5,649,103 issued to Datta *et al.* (hereinafter “Datta”). Claims 14 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kumar. Claims 16-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kumar, as applied to claim 14 above, and further in view of Datta. Claim 19 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kumar. Claims 20-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kumar and further in view of Datta. Claims 25-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kumar and further in view of Datta.

To determine obviousness of a claim: (1) factual findings must be made under the factors set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966); and (2) the analysis supporting the rejection under 35 U.S.C. § 103 should be made explicit and there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. See MPEP §§ 2141(II), 2141(III), and 2142; KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1396; see e.g., MPEP § 2143 (providing a number of rationales which are consistent with the proper “functional approach” to the determination of obviousness as laid down in Graham).

In regard to claim 1, this claim recites “generating a separate unique identifier for each of the sub-requests.” The Examiner acknowledges that Kumar fails to disclose “generating a separate unique identifier for each of the sub-requests.” See Office Action, Page 4. Instead, the Examiner argues that it would have been obvious to assign a unique identifier to identify where

the sub-requests and sub-responses are sent to and received from. See Office Action, Page 5. However, the Examiner has failed to provide support for this contention.

By failing to provide support for his contention, the Examiner has failed to establish a *prima facie* case that it would have been obvious to generate “a separate unique identifier for each of the sub-requests.” “Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known.” MPEP 2144.03(A). Further, evidentiary support must be provided by the Examiner to support the contention that an element of a claim is well-known or common knowledge in the art. See Id. “It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known” (emphasis in original). MPEP 2144.03(A). By failing to provide prior art to support the contention, the Examiner has failed to establish a *prima facie* case that “generating a separate unique identifier for each of the sub-requests” is obvious based on Kumar.

Further, the Applicant submits that it would not have been obvious to assign to each sub-response or sub-request a unique identifier to identify where the sub-requests and sub-responses are sent to and received from. Specifically, the Applicant cites the Transmission Control Protocol (TCP) as an example of a ubiquitously utilized transfer protocol. The TCP packet header includes eleven fields. See “Transmission Control Protocol.” Wikipedia: The Free Encyclopedia. Wikimedia Foundation, Inc. 13 March 2009.

<http://en.wikipedia.org/wiki/Transmission_Control_Protocol>. However, none of fields represent a unique identifier for each packet which identify where the sub-requests and sub-responses are sent to and received from, because none of the fields are designated as being unique to the packet. See Id. Specifically, the source port and destination port fields are not unique to each packet. See Id. Packets can have identical field values and still comply with the TCP. See Id. It is conceivable and likely that packets will share identical source port and destination port values as more than one packet is often transferred between the same source and destination ports. Thus, the Applicant submits that it would not be obvious to assign a unique identifier to each sub-request or sub-request as asserted by the Examiner, because in a common

communication protocol, such as TCP, this convention is not upheld. Accordingly, the Examiner's Official Notice has been traversed and the Examiner has failed to establish a *prima facie* case of obviousness under 35 U.S.C. § 103. Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the rejection of this claim.

In regard to the rejections of claims 14 and 19, these claims include elements analogous to those of claim 1. The Examiner has acknowledged that elements of these claims are not entirely disclosed by Kumar. The Examiner contends that the missing elements would have been obvious to a person of ordinary skill in the art. However, for the same reasons discussed above in regards to claim 1, the Examiner's Official Notice has been traversed and the Examiner has failed to establish a *prima facie* case of obviousness under 35 U.S.C. § 103. Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the rejection of these claims.

In regard to the rejections of claims 2-13 and 15-18, these claims depend from independent claims 1 and 14, respectively, and incorporate the limitations thereof. The Examiner's argument assumes that Kumar discloses all elements of claims 1 and 14 which are incorporated in dependent claims 2-13 and 15-18. However, as discussed above, Kumar does not disclose all the limitations of claims 1 and 14. Therefore, claims 2-13 and 15-18 are not taught or suggested by the cited references. Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the rejection of these claims.

In regard to the rejections of claims 20 and 25, these claims have been amended to recite elements analogous to those of claim 1. These amendments are supported, for example, by page 8, lines 9-16, page 9, lines 4-28, and page 12, line 29 through page 13, line 9 of the Specification. As discussed above in regards to the rejection of claim 1, the Examiner has failed to establish a *prima facie case* that "generating a separate unique identifier for each of the sub-requests" is obvious based on Kumar. Further, the Examiner has not cited and the Applicant has been unable to locate any sections of Datta which cure the deficiencies of Kumar. Thus, the combination of Kumar and Datta fails to teach or suggest each element of amended claims 20 and 25. Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the rejection of these claims.

In regard to the rejections of claims 21-24 and 26-28, these claims depend from independent claims 20 and 25, respectively, and incorporate the limitations thereof. The

Examiner's argument assumes that the combination of Kumar and Datta discloses all elements of claims 20 and 25 which are incorporated in dependent claims 21-24, and 26-28. However, as discussed above, the combination of Kumar and Datta does not disclose all the limitations of claims 20 and 25. Therefore, claims 21-24, and 26-28 are not taught or suggested by the cited references. Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the rejection of these claims.

Moreover, the Applicant has amended claim 1, 7, 10, 11, 14, 19, and 21 to clarify particular elements of these claims and to cure typographical errors. These amendments are supported, for example, by page 8, lines 9-16, page 9, lines 4-28, and page 12, line 29 through page 13, line 9 of the Specification. Accordingly, the Applicant respectfully requests entry of these amendments.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

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3/30/09

Date